

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SAIDEH HABIBI,

Plaintiff,

v.

ORANGE COUNTY, SOCIAL
SERVICES AGENCY,

Defendant.

Case No. 2:25-cv-1507-DC-JDP (PS)

ORDER

Plaintiff brings this action against Orange County, Social Services Agency. The complaint fails to state a claim, however.¹ I will dismiss the complaint with leave to amend. I will also grant plaintiff's application to proceed *in forma pauperis*, ECF No. 2, which makes the

¹ In addition to filing her complaint, motion to proceed *in forma pauperis*, and motion for electronic filing permission, plaintiff also filed a motion for a temporary restraining order. In it, she asked that the court issue an order directing defendant to "cease any form of harassment or retaliation," comply with a medical note concerning her need to work remotely, pay her the salary she would have received had she not taken medical leave, and "cancel the unjust extension of [her] 12-month probation period." ECF No. 4 at 2. The court denied plaintiff's motion, finding that her complaint does not demonstrate a likelihood of success on the merits and that the motion suffered from procedural defects. ECF No. 6. The undersigned finds that the complaint fails to state a claim for the reasons articulated in the that order. The court also referred plaintiff's action to the undersigned for all further pretrial matters. *Id.*

1 showing required by 28 U.S.C. §§ 1915(a)(1) and (2), but deny plaintiff's request for electronic
2 filing privileges, ECF No. 3.

3 Screening and Pleading Requirements

4 A federal court must screen the complaint of any claimant seeking permission to proceed
5 *in forma pauperis*. See 28 U.S.C. § 1915(e). The court must identify any cognizable claims and
6 dismiss any portion of the complaint that is frivolous or malicious, fails to state a claim upon
7 which relief may be granted, or seeks monetary relief from a defendant who is immune from such
8 relief. *Id.*

9 A complaint must contain a short and plain statement that plaintiff is entitled to relief,
10 Fed. R. Civ. P. 8(a)(2), and provide “enough facts to state a claim to relief that is plausible on its
11 face,” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). The plausibility standard does not
12 require detailed allegations, but legal conclusions do not suffice. See *Ashcroft v. Iqbal*, 556 U.S.
13 662, 678 (2009). If the allegations “do not permit the court to infer more than the mere
14 possibility of misconduct,” the complaint states no claim. *Id.* at 679. The complaint need not
15 identify “a precise legal theory.” *Kobold v. Good Samaritan Reg'l Med. Ctr.*, 832 F.3d 1024,
16 1038 (9th Cir. 2016). Instead, what plaintiff must state is a “claim”—a set of “allegations that
17 give rise to an enforceable right to relief.” *Nagrampa v. MailCoups, Inc.*, 469 F.3d 1257, 1264
18 n.2 (9th Cir. 2006) (en banc) (citations omitted).

19 The court must construe a pro se litigant's complaint liberally. See *Haines v. Kerner*, 404
20 U.S. 519, 520 (1972) (per curiam). The court may dismiss a pro se litigant's complaint “if it
21 appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which
22 would entitle him to relief.” *Hayes v. Idaho Corr. Ctr.*, 849 F.3d 1204, 1208 (9th Cir. 2017).
23 However, ““a liberal interpretation of a civil rights complaint may not supply essential elements
24 of the claim that were not initially pled.”” *Bruns v. Nat'l Credit Union Admin.*, 122 F.3d 1251,
25 1257 (9th Cir. 1997) (quoting *Ivey v. Bd. of Regents*, 673 F.2d 266, 268 (9th Cir. 1982)).

26 Additionally, a plaintiff's complaint must set forth the basis for federal court jurisdiction.
27 A federal court may adjudicate only those cases authorized by the Constitution and by Congress.
28 *Kokkonen v. Guardian Life Ins. Co.*, 511 U.S. 375, 377 (1994). The basic federal jurisdiction

1 statutes, 28 U.S.C. §§ 1331 & 1332, confer “federal question” and “diversity” jurisdiction,
2 respectively. Federal question jurisdiction requires that the complaint (1) arise under a federal
3 law or the U.S. Constitution, (2) allege a “case or controversy” within the meaning of Article III,
4 § 2 of the U.S. Constitution, or (3) be authorized by a federal statute that both regulates a specific
5 subject matter and confers federal jurisdiction. *Baker v. Carr*, 369 U.S. 186, 198 (1962). A case
6 presumably lies outside the jurisdiction of the federal courts unless demonstrated otherwise.
7 *Kokkonen*, 511 U.S. at 376-78.

8 Analysis

9 Plaintiff alleges that her employer, defendant Orange County, Social Services Agency, has
10 engaged in employment discrimination and retaliation under Title VII of the Civil Rights Act of
11 1964 (“Title VII”) and the Age Discrimination in Employment Act of 1967 (“ADEA”). ECF No.
12 1.

13 Plaintiff is a Farsi speaking woman who is older than 40 years of age. *Id.* at 4, 7. She
14 claims that at her place of employment, she has been harassed and discriminated against by four
15 individuals. *Id.* at 7. For example, she alleges that her direct supervisor, Laura Lopez, asked
16 plaintiff where she was born, what plaintiff’s husband does for a living, his income, whether
17 plaintiff and her husband own a home, and how much equity she and her husband have in their
18 home. *Id.* Plaintiff claims that Lopez favors employees who buy her gifts, which plaintiff is
19 unable to do. *Id.* at 8. Plaintiff also alleges that since February 2024, she has been one of three
20 new employees, but the other two, one of whom is white, have passed their probationary periods.
21 Plaintiff claims that his pattern of discrimination is compounded by the fact that her supervisors
22 are unnecessarily copied on emails about her work progress. *Id.* at 10.

23 Title VII makes it unlawful for an employer to “fail or refuse to hire or to discharge any
24 individual, or otherwise to discriminate against any individual with respect to his compensation,
25 terms, conditions, or privileges of employment, because of such individual’s race, color, religion,
26 sex, or national origin” 42 U.S.C. § 2000e-2(a)(1).

27 As the court previously determined, the complaint fails to allege facts to support a Title
28 VII claim, which plaintiff claims is predicated on discrimination based on race, color, religion,

1 and national origin. The complaint is devoid of factual allegations supporting her membership in
2 any protected class. *See McDonald v. San Francisco Unified Sch. Dist.*, No. 4:07-cv-4249 PJH,
3 2007 WL 3144832, at *5 (N.D. Cal. Oct. 24, 2007) (dismissing Title VII claim of discrimination
4 based on race and religion where the plaintiff did not state what race he was or religion he
5 practiced). The plaintiff's allegations that she speaks Farsi and was unable to purchase gifts for
6 her supervisor do not demonstrate that she is a member of a protected class.

7 The ADEA makes it unlawful for an employer to "discriminate against any individual
8 with respect to his compensation, terms, conditions, or privileges of employment, because of such
9 individual's age," though the prohibition is "limited to individuals who are at least 40 years of
10 age." 29 U.S.C. §§ 623(a)(1), 631(a). To establish a prima facie case of age discrimination under
11 the ADEA, the plaintiff must show: (1) she was age 40 or older; (2) she was performing her job
12 satisfactorily; (3) she suffered an adverse employment action; and (4) circumstances that lead to
13 an inference of age discrimination. *Fitch v. San Francisco Unified Sch. Dist.*, No. 15-cv-2769-SI,
14 2015 WL 6551668, at *5 (N.D. Cal. Oct. 29, 2015). Again, as the court previously found, the
15 complaint fails to allege that plaintiff was discriminated against based on her age. Plaintiff also
16 does not allege that she received different treatment from other employees because of her age.

17 I will allow plaintiff a chance to amend her complaint before recommending that this
18 action be dismissed. Plaintiff should also take care to add specific factual allegations against each
19 defendant. If plaintiff decides to file an amended complaint, the amended complaint will
20 supersede the current one. *See Lacey v. Maricopa Cnty.*, 693 F.3d 896, 907 n.1 (9th Cir. 2012)
21 (en banc). This means that the amended complaint will need to be complete on its face without
22 reference to the prior pleading. *See* E.D. Cal. Local Rule 220. Once an amended complaint is
23 filed, the current one no longer serves any function. Therefore, in an amended complaint, as in
24 the original, plaintiff will need to assert each claim and allege each defendant's involvement in
25 sufficient detail. The amended complaint should be titled "First Amended Complaint" and refer
26 to the appropriate case number. If plaintiff does not file an amended complaint, I will
27 recommend that this action be dismissed.
28

Motion for Electronic Filing

Plaintiff has also filed a motion for permission to file documents electronically. ECF No. 3. Generally, “any person appearing pro se may not utilize electronic filing except with permission of the assigned Judge or Magistrate Judge.” E.D. Cal. L.R. 133(b)(2). “Requests to use paper or electronic filing as exceptions from these Rules shall be submitted as stipulations as provided in L.R. 143 or, if a stipulation cannot be had, as written motions setting out an explanation of reasons for the exception.” E.D. Cal. L.R. 133(b)(3).

Plaintiff’s motion does not demonstrate good cause to depart from the normal filing procedure for unrepresented litigants. The motion is denied.

Accordingly, it is hereby ORDERED that:

1. Plaintiff’s motion to proceed *in forma pauperis*, ECF No. 2, is GRANTED.
2. Plaintiff’s complaint, ECF No. 1, is DISMISSED with leave to amend.
3. Plaintiff’s motion for electronic filing privileges, ECF No. 3, is DENIED.
4. Within thirty days from service of this order, plaintiff shall file either (1) an amended complaint or (2) notice of voluntary dismissal of this action without prejudice.
5. Failure to timely file either an amended complaint or notice of voluntary dismissal may result in the imposition of sanctions, including a recommendation that this action be dismissed with prejudice pursuant to Federal Rule of Civil Procedure 41(b).
6. The Clerk of Court shall send plaintiff a complaint form with this order.

IT IS SO ORDERED.

Dated: June 9, 2025


JEREMY D. PETERSON
UNITED STATES MAGISTRATE JUDGE